

MINUTES

STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

March 12, 2001 – Regular Meeting

Rowe Six Conference Center

Building 1

4224 6th Avenue SE

Lacey, Washington

Item 1: Call to Order

Chair Deborah Ross called the meeting to order at 1:30 p.m. A quorum was present.

Item 2: Roll Call

Chair

Department of Agriculture

Department of Health

Military Department

Department of Natural Resources

Department of Transportation

Utilities and Transportation Commission

Deborah Ross

Daniel Jemelka

Ellen Haars

Maillian Uphaus, on behalf of

Glen Woodbury

Tony Ifie

John Doyle

Dick Byers

Others in Attendance

EFSEC Staff and Counsel

Allen Fiksdal

Mike Mills

Robert Fallis, AAG, EFSEC

Irina Makarow

Mariah Laamb

Guests

Alan Harger, WSDOT

Brian Carpenter, REBOUND

Bill Kiel, Energy Northwest

Tony Usibelli, OTED

William Frymire, AAG

Jim Thornton, Golder Associates

Karen McGaffey, Perkins Coie

Beth Durret, CIC

Mike Dunning, CFE

John Barratt, Natural Carbon

Liz Thomas, Perkins Coie

Kevin Johnson, Duke Energy

Mike Torpey, BP Cherry Point

Doug Pearman, SAIC

Katy Chaney, URS

Greg Poremba, Jones & Stokes

Douglas Morell, Golder Associates

John Mudge, CIC

Rose Spogen, CIC

Ron Lavigne, CFE

Kevin Finan, Tractebel

Wayne White, Tractebel

Beth Spelsberg, Golder Associates
Darrell Peeples, Counsel for
Newport Northwest
John Newman

Laura Schinell, Energy Northwest
Cindy Custer, BPA
Mike Elmer, Starbuck Power

Item 3: Approval of Minutes

The minutes of the special meetings, February 7, 2001 and February 16, 2001, were adopted as presented.

Item 4: Adoption of Proposed Agenda

The "Other" category was moved to the top of the agenda and the remaining items accepted as submitted.

Item 5: Other

Chair Ross announced that Nan Thomas, EFSEC's Administrative Law Judge for the Sumas Energy 2 proceedings has been promoted to the position of Senior Administrative Law Judge. A thank you card was circulated for Council and Staff to sign congratulating her on her recent promotion.

Mr. Charles Earl was asked by Governor Gary Locke to interview Council members on their ideas for improving the EFSEC review process. He would like to talk to Council members either one-on-one or in small groups. Mr. Fiksdal will send an e-mail to current Council members with the details for scheduling time with Mr. Earl.

Chair Ross indicated she was planning to attend the biennial meeting of the Western Interstate Energy Board (WIEB) of Commissioners meeting and the Committee on Regional Electric Power Cooperation (CREPC) meeting in Scottsdale, Arizona. The meeting dates are mid-April and she encouraged other Council members to attend, with the costs being covered by each individual's agency. Mariah Laamb, staff secretary, will send an e-mail with the details to Council members.

Mr. Fiksdal reported Council members are unclear as to the purpose of the Executive Committee meetings versus the regular Council meetings. It was explained that Executive Committee meetings are for the purpose of staff getting guidance or recommendations on agenda items that may need full Council approval. Chair Ross decided to include the previous Executive Committee meeting agenda(s) in the regular Council meeting packets for all Council members, as was common practice in the past.

Chair Ross officially welcomed newest Council member, Mr. Tony Ifie, Department of Natural Resources, to his first Council meeting. Mr. Ifie started on March 1, 2001 filling the Council position previously held by Ms. Gayle Rothrock.

Item 6: Chehalis Generation Facility

<i>Order on SCA Amendment Request</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Mr. Fiksdal reported that the Chehalis Generating Facility Site Certificate Agreement (SCA) Amendment was signed by Governor Gary Locke and Mr. Kevin Finan, project manager for Chehalis Power/Tractebel, at an official ceremony on March 6, 2001. The parties to the adjudicative proceedings were served with a copy of the signed SCA amendment and Order No. 752.

Mr. Kevin Finan, Tractebel, addressed the Council's concerns related to the Initial Site Restoration Plan, regarding financial assurances for the project. He stated Tractebel is working to develop a plan similar to what the Oregon Energy Facility Site Council requires. This would include a letter from Tractebel to guarantee performance of Chehalis Power to restore the site if construction is terminated prematurely. The company is proposing a \$5 million site restoration fund to guarantee Chehalis Power's performance under the restoration plan.

The Council acknowledged that Tractebel Inc., would need to provide a letter of assurance or corporate guarantee of payment, in the sum of \$5 million during the construction and operational phases of the project. This guarantee will remain in effect until the sum of \$5 million has accumulated in a site restoration retirement fund. In the sixth year of commercial operations, Chehalis Power will deposit into the site restoration fund \$500,000 annually, over a 10-year period, until a sum of \$5 million has accumulated in the retirement fund. This account will be maintained throughout the life of the project.

Mr. Fiksdal indicated the review of the Initial Site Restoration Plan was going smoothly and nearing completion. He stated there was need to clarify some of the definitions contained in the plan related to: Restoration Costs; Public Health & Safety; and Environmental Protection. Council and staff discussed their concerns and offered some suggestions to the definitions. Rusty Fallis, EFSEC Assistant Attorney General (AAG), cautioned that terms used in this site restoration plan be carefully considered to ensure they are not inconsistent with EFSEC's laws and regulations. Mr. Fallis and staff will follow-up with Tractebel to get agreement on the terms and conditions of the plan.

Ms. Liz Thomas, counsel for Chehalis Power, notified EFSEC she had just received a Petition for Review, filed in Thurston County Superior Court by REBOUND, regarding the Governor's approval of the Chehalis SCA amendment.

Mr. John Mudge, Critical Issues Council, requested background on how the proposed \$5 million was determined to be adequate to restore the site. Ms. Thomas responded that she would provide Mr. Mudge with information on how the estimate was developed.

Item 7: Satsop Combustion Turbine (CT) Project

<i>SCA Amendment Request</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Mr. Fiksdal presented Mr. Kevin Johnson, Duke Energy, to explain the SCA amendment request for the Satsop CT Project.

Mr. Johnson outlined the changes being requested by Duke Energy and Energy Northwest. They are proposing to change to GE turbines, instead of Westinghouse; there will be changes in how the combustion and steam generators are configured; they intend to eliminate diesel oil as a back-up fuel; the more efficient turbines will increase the output to about 650 megawatts; and they are not requesting changes in air emissions or water usage. Duke/Energy Northwest would like the Council to consider their request as soon as possible, as they would like to start construction this summer.

Mr. Fiksdal inquired if the Council wanted to schedule a public meeting prior to the April Council meeting, to receive comments on the proposed amendment to the Satsop CT Project SCA. The Council indicated that was their preference, so staff will start making arrangements for an evening meeting in Elma. Chair Ross recommended waiting until after the public meeting to decide if the request is a technical amendment or not. If it is determined to be a technical amendment, then the Council will take action through a resolution.

Mr. William Frymire, Assistant Attorney General for the Washington Department of Fish and Wildlife, shared some concerns about the construction of the natural gas pipeline and the mitigation plan developed in the original SCA. He wants to confirm that the construction plan is consistent with the existing plans in the SCA. He understands that Williams Pipeline Company is holding a public meeting to discuss possible impacts associated with bringing natural gas to the Satsop CT Project site.

Mr. Johnson of Duke Energy, responded that if Williams Pipeline Company builds the natural gas pipeline to supply gas to the Satsop CT site, it would fall under FERC jurisdiction and be outside of EFSEC's jurisdiction. He also explained that since Williams already has an existing pipeline that covers much of the same corridor necessary for natural gas to be connected to the Satsop CT site, there would be a cost savings for not having to duplicate a pipeline that is already in existence. Mr. Johnson also mentioned that although the current SCA allows for building a natural gas pipeline to this site, they are not obligated to build a pipeline in connection with this project. Mr. Johnson agreed to discuss concerns and coordinate issues with Mr. Frymire and Department of Fish and Wildlife staff.

Item 8: Sumas Energy 2

<i>Jones and Stokes Contract Review</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Mr. Fiksdal reported that the special committee chosen at the last Executive Council meeting was ready to report on their findings and make a recommendation to the full Council regarding payment for out-of-scope work performed by Jones and Stokes Associates (JSA). Ms. Haars read a prepared statement from the committee.

“On Thursday, March 1, 2001, Charles Carelli, Ellen Haars, Allen Fiksdal, Irina Makarow, and Rusty Fallis (by telephone) met to review the request by Jones and Stokes for additional payment for work on the Sumas 2 project as outlined in their letter to the Council dated January 26, 2001.

As you recall, Jones and Stokes outlined ten areas where they felt that additional payment for 'out of scope' work on the Sumas 2 application review, and draft and final EIS, was warranted. Jones and Stokes requested an additional \$98,000 payment to cover their expenses on this project. They further stated that they were able to cover a portion of these costs under existing authorizations, and as a result were requesting an additional \$75,000.

To begin our discussion, we asked ourselves two questions: 1. What damage was caused to EFSEC as a result of Jones and Stokes not requesting Council approval before performing certain tasks in a timely manner? 2. Is it possible that the Council would have requested that Jones and Stokes perform the work for which they are requesting payment, had the request been timely?

The unanimous recommendation as a result of our review of the Jones and Stokes request is that additional payment is appropriate. During our discussion we considered the additional payment (\$25,000) authorized by the Council in December 2000. This amount is viewed as additional payment authorization for work to be performed by Jones and Stokes from that date forward.

At the meeting on March 1, 2001, each item in the January 26, 2001 Jones and Stokes letter was reviewed and discussed. Our review found that one item out of the 10 for which Jones and Stokes was requesting additional funding was not appropriate. That was a \$10,000 task for the evaluation of two - 115 kV transmission lines in Whatcom County. This activity was included in contract amendment 2 and amplified in amendment 3. Consequently, this amount should be disallowed from the amount requested by Jones and Stokes.

Jones and Stokes requested an additional \$75,000. It is our recommendation that the Council approve an additional payment to Jones and Stokes for \$65,000. We further recommend that Rusty Fallis draft what would essentially be a settlement letter that we send to Jones and Stokes before making additional payments.

In response to the two initial questions we asked ourselves when we began our review, we found the following:

1. The Council did not suffer any damage as a result of Jones and Stokes not requesting additional funding in a timely manner and;
2. The Council would have asked for the work to be done and in fact did ask for this work to be done;
3. That being the case, it is appropriate that an additional payment be made to Jones and Stokes in the amount of \$65,000 and the Applicant, Sumas Energy, be billed for that amount."

Chair Ross requested that the Council authorize Mr. Fiksdal to send a letter to JSA allowing JSA to submit an invoice for \$65,000 to cover the costs of the out-of-scope work. The Council requested that staff verify with EFSEC's AAG that such a letter is sufficient, or whether a contract amendment will be necessary.

Motion: To authorize Allen Fiksdal to send a letter to Jones and Stokes Associates allowing the submittal of an invoice of \$65,000 to cover out-of-scope work costs incurred by JSA for the Sumas Energy 2 contract.

Action: The motion passed unanimously.

Item 9: Starbuck Potential Site Study

<i>Potential Site Study (PSS) Report</i>	<i>Greg Poremba, JSA reporting</i>
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Mr. Poremba reported on Jones and Stokes activities on the Starbuck Potential Site Study for the past month. Jones and Stokes met with Starbuck Power on February 15th and discussed the timing of Starbuck completing sections of the draft application for receipt by JSA in the next few weeks.

On February 26th, there was a meeting with Starbuck and Wallula representatives and Bonneville Power Administration (BPA) to discuss NEPA/SEPA coordination for the three Eastern Washington CT projects and associated transmission lines, before the Council. On March 5th, a final PSS report was delivered to the Council and the schedule for the remaining work is on track.

Item 10: Newport Northwest - Wallula

<i>Progress Report</i>	<i>Greg Poremba, JSA reporting</i>
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Mr. Poremba reported on Jones and Stokes activities for the Wallula Power Project PSS for the past month. On February 26th, there was a meeting with Starbuck and Wallula representatives and Bonneville Power Administration (BPA) to discuss NEPA/SEPA coordination. On February 28th, JSA submitted an administrative draft PSS report for the Wallula project for Council review and consideration. Council comments are due back to EFSEC staff by March 16th.

The Military Department requested an extension of review and comment time due to an extremely heavy schedule related to the recent Nisqually earthquake. The Council responded that all agencies would need to follow the schedule as prescribed to keep the project schedules on track, but that the Military Department's comments would be included, if possible.

Ms. Makarow reported on the overall schedules for the Starbuck and Wallula projects. Both Starbuck and Wallula are proposing to submit their applications in July. The finding of completeness for an application will be conducted in the first 60 days after an application is submitted. There will also be a scoping meeting during the same time, for the draft EIS to be held jointly with the land use hearing and public meeting.

JSA expects to prepare draft EIS's for both the Wallula and Starbuck projects around the end of October, or early November. There would be a draft EIS comment period lasting 45-60 days per BPA's request. BPA requires a minimum of 45 days but generally extends it to 60 days. All comments would be received on both projects by January 2002. JSA will need about 2 months to respond to the comments and the preliminary final EIS would be ready in April 2002. At that time, the Council would be ready to begin the adjudicative hearing process. Intervention and

pre-hearing conferences would have been held prior to the beginning of the adjudicative hearings.

Chair Ross requested that EFSEC staff prepare a general schedule for all of the projects. Ms. Makarow will complete this and inform the Council when it will be available.

<i>BPA Coordination</i>	<i>Irina Makarow, EFSEC staff reporting</i>
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Ms. Makarow assisted in the coordination meeting held February 26th with JSA, EFSEC, BPA, and Wallula and Starbuck proponents. The main points of the meeting were: Scoping required by National Environmental Policy Act (NEPA) – BPA is moving quickly on selecting routes and performing studies. BPA must legally notify property owners along the routes to request access to complete their studies. Mr. Tom McKinney, of BPA, suggested BPA issue a Notice Of Intent (NOI) notifying owners that an Environmental Impact Statement (EIS) will be produced in the near future in connection with the transmission lines proposed for the projects in question.

The Wallula proponents would like to hold a public meeting to provide information to property owners regarding the transmission line routes. The Starbuck proponents were not as interested in holding a public meeting. For both projects, BPA will be issuing a NOI and a letter to landowners officially informing them what is happening regarding the environmental review of the transmission line corridors.

Next was the issue of tribal involvement and field studies. BPA has begun coordinating on a government-to-government level with the tribes, and preparing generalized contracts that the proponents would customize and sign with each of the tribes on each of the projects. This would clarify who would provide oral histories, and for the presence of tribal members during any of the field studies on the sites and transmission line routes. BPA expects it will take up to 3 months to get all contracts signed by the tribes involved.

Field studies are expected to start fairly soon, with BPA looking at the time period between May and June, and possibly as late as August. On cumulative impacts, BPA has named Deb Malin to coordinate the air cumulative impacts work and expects to have a separate draft environmental impact statement at the end of the summer. That separate document will get incorporated into EFSEC's EIS documents, either by reference or as an appendix. Other cumulative impact issues are related to natural gas. In how much detail would the environmental impacts of natural gas supply and pipelines have to be evaluated? Do impacts in Canada and the natural gas fields have to be investigated? BPA would not look at the impacts in Canada, but would focus on the impacts to gas supply and demands on the United States, within the region that could be affected by the projects. This is also where they would look at the transmission line cumulative effects.

Per the Council's request, EFSEC staff is reviewing the proposed Memorandum Of Understanding (MOU) with BPA, to include working on more specific terms to clarify which section of the EIS will be written/reviewed by EFSEC and BPA. Staff will try to incorporate some schedule considerations to determine what needs to happen first and to get the final EIS's produced in a timely manner. The EIS's will address the cumulative impacts on air quality, natural gas supply, and transmission.

It was clarified that NEPA requires that the projects be specifically discussed in the EIS, because without these projects, some of the transmission lines wouldn't be built. The federal EIS has to look at all the impacts associated with the projects, linking the cumulative impacts to the transmission lines being sited by BPA.

Item 11: Cogentrix – Mercer Ranch Generation Facility

<i>Progress Report</i>	<i>Doug Pearman, SAIC reporting</i>
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Mr. Pearman reported on activities since SAIC was hired six weeks ago. They had their first meeting with EFSEC staff, Cogentrix staff and consultants on February 7th. They attended the February 12th Council meeting. On February 23rd, SAIC submitted an information request to Golder and Associates via e-mail outlining information necessary to proceed with the Potential Site Study (PSS). Information was received on Friday, March 9th. SAIC attended the agency meeting in Prosser on the morning of February 27th, went for a site visit in the afternoon and attended the evening public meeting in Patterson. Water is the key issue. Cogentrix wants to transfer some water rights from Mercer Ranch to Cogentrix; construct a reservoir to hold the water and then use the water from the reservoir for once through cooling loop. Issues include: construction of the impoundment; inundating some existing wetlands; perhaps disturbing an existing stream; and the timeliness of transfer of water rights. There will be some other impacts, such as aesthetics and air, which it is felt can be mitigated. The biggest concern is how can the water issue be solved on time.

The next step for SAIC is to develop and deliver a draft PSS on April 6th, but Mr. Pearman indicated they do not have the information necessary to do the job. They are looking for a written description of the project from the proponent. As such, they have not made contacts with the jurisdictional agencies believing that Golder Associates has likely done so and gathered background information. To not duplicate efforts, SAIC has communicated their needs to Golder. Cogentrix and Golder committed to get the necessary information to SAIC.

<i>SAIC Contract Amendment</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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SAIC is requesting to extend their project schedule for two months, with the draft PSS to be submitted in early June and the final in early July. After getting the information back from Golder, they will proceed to make contacts to Benton County Planning, Benton County Clean Air Authority and Klickitat County Planning, since Mercer Ranch sits in both counties. SAIC also plans to contact Dept. of Ecology about water rights, air, and potential waste discharge issues. SAIC has contacted BPA and will meet with them the following week to discuss any NEPA issues that need to be addressed.

Mr. Jim Thornton, Golder Associates, representing Cogentrix, expressed concerns with EFSEC granting an extension to SAIC. Cogentrix is concerned that the project has had delays in waiting for a consultant to be hired to complete their preliminary site study and they would like to have SAIC be more aggressive in acquiring information from agency and local groups to produce a draft PSS. Cogentrix is hoping this project would be placed on the fast track and is concerned with a possible 60-day delay.

Mr. Thornton has contacted Dept. of Ecology and they hope the water transfer issues will be resolved by the time they submit their application. They plan to request from Ecology a water reservoir permit; a water right out of the Columbia River; and a new secondary water right out of the reservoir they propose to construct. If this approach is successful, Cogentrix believes they would not need a water transfer from Mercer Ranch.

Motion: To authorize the Chair to amend the contract to extend SAIC's project schedule for two months, with the draft PSS to be submitted no later than June 8, 2001 and the final no later than July 6, 2001.

Action: The motion passed unanimously.

Item 12: Energy Northwest Columbia Generating Station & WNP-1/4

<i>Columbia Operations</i>	<i>Bill Kiel, ENW reporting</i>
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Mr. Bill Kiel reported that Columbia Generating Station was operating at 1139 megawatts in its 172nd day of continuous operation. He indicated that the February 28 earthquake was felt in some parts of the plant. Energy Northwest staff did a walk-through to make sure there was no damage to plant equipment or operating systems. Beginning on May 18, the plant is scheduled to shutdown for approximately 30 days to refuel one-half of the reactor and perform general maintenance work.

Energy Northwest is currently reviewing the draft National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit prepared by EFSEC and will provide comments back to staff.

Removal of the WNP-1 cooling tower transite is continuing, but is expected to take longer than originally planned.

<i>WNP-1/4 Building Leases</i>	<i>Mike Mills, EFSEC staff reporting</i>
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Energy Northwest has requested authorization to lease WNP-1/4 site facilities for three separate activities. Staff recommended approval of the leases described in the following motion.

Motion:

- 1) Approve lease of Buildings 211 and 212 to North Pacific Marine Industries to manufacture, fabricate, pre-assemble, and test pleasure boats.
- 2) Approve lease of a complex of existing buildings (242,248, 250, 252, 258, 259, and 400) and approximately thirty acres of adjacent outside lay-down area to ADF Corporation for the purpose of selling non-radioactive surplus materials and equipment from the U. S. Department of Energy-Hanford Operations (USDOE). This is in addition to ADF's existing lease of Building 205. This authorization would be conditioned upon the Council's understanding that ADF Corporation will not accept any radiological contaminated property from USDOE.
- 3) Approve lease of WNP-4 Spray Pond, Spray Pond Pump House, and Warehouse 5, to a joint venture of Fluor Federal Services and Informatics Corporation to test and evaluate waste transfer components. This approval would be conditioned upon relocating the

WNP-4 primary security fence and not having lessee personnel onsite until the fence is relocated.

In addition, it is the Council's understanding that lease agreements entered into by Energy Northwest for the above activities will include the general "environmental protection" provision previously approved.

Action: The motion passed unanimously, with the noted conditions.

<i>FY 2002 Monitoring Contracts</i>	<i>Mike Mills, EFSEC staff reporting</i>
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Mr. Mills gave a brief summary of the monitoring contracts that he is negotiating with the state and local agencies that provide emergency preparedness and compliance monitoring services. These contracts will be brought to the Council in April and May for approval.

Item 13: BP Cherry Point Project

<i>Request for Potential Site Study</i>	<i>Mike Torpey, BP Cherry Point and Allen Fiksdal, EFSEC Manager, reporting</i>
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Mr. Fiksdal introduced Mr. Mike Torpey, BP Cherry Point Refinery (BP), to present their request for a preliminary site study. BP is proposing a 750-megawatt natural gas fired combined-cycle combustion turbine cogeneration plant. The site is located on 25 acres within the property boundaries at the refinery, in Whatcom County. It is in a major industrial zoned area, and is contained in the Industrial Urban Growth Area. The infrastructure is already in place; BPA transmission corridor is adjacent to BP property; and Whatcom PUD #1 would supply water to the project.

Mr. Torpey presented EFSEC with a check for \$10,000 to initiate the preliminary site study.

Mr. Fiksdal reported EFSEC staff would need to develop an RFP to invite proposals from consultants to assist in the PSS for the BP Cherry Point project. The length of time for notifying potential consultants through an RFP, acquiring their proposals, interviewing and selecting a consultant will take about 6 weeks.

Motion: The request for a Preliminary Site Study is considered complete and staff is to obtain an independent consultant to complete the study.

Action: The motion passed unanimously.

Item 14: Legislation

<i>Update</i>	<i>Allen Fiksdal, EFSEC Manager, reporting</i>
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Mr. Fiksdal reported on the two bills relating to EFSEC that have seen any continuing activity. SSB 5912, sponsored by Senator Karen Fraser, came out of the Ways and Means Committee, with the legislative study portion stricken. The Governor's office has some concerns about certain aspects of the bill.

SHB 2321 has not made it out of the House Appropriations Committee yet, so it is unclear if anything will happen with this bill either.

Item 15: Other

Our newest Council member was introduced at the meeting today. Ms. Maillian Uphaus is replacing Diane Offord, alternate designee for the Department of the Military. Diane has been appointed the State Coordinating Officer for the Nisqually Earthquake Disaster Field Office. Mr. Glen Woodbury will continue as primary delegate.

Item 16: Adjourn

The meeting was adjourned at 3:40 p.m.